



Homeland
Security

February 24, 2011

Michael W. Macleod-Ball
Chief Legislative and Policy Counsel
Michael German
Policy Counsel
American Civil Liberties Union
915 15th Street, NW
Washington, DC 20005

Re: Complaint No. 09-06-DHS-0054

Dear Messrs. Macleod-Ball and German:

This letter is a response to information the Office for Civil Rights and Civil Liberties (CRCL) received from you on March 27, 2009, concerning the potential abuse of authority by officials of the U.S. Secret Service (USSS) and the Federal Protective Service (FPS), an office located at the time within Immigration and Customs Enforcement (ICE) and now within the Department's National Protection and Programs Directorate (NPPD). In a letter to you on June 9, 2009, we informed you that CRCL would review one or more of the issues raised in your complaint, pursuant to 6 U.S.C. § 345 and 42 U.S.C. § 2000ee-1.

During the course of this investigation, CRCL reviewed the information that you provided and relevant FPS and USSS policies and procedures. In addition, we interviewed former and current FPS and USSS officials regarding your allegations. We have concluded our investigation and issued findings and recommendations in a memorandum to NPPD and the USSS. CRCL's memorandum is a privileged communication, and, as such, is protected from disclosure. We can, however, characterize the outcome of our investigation. We found that FPS officials acted within their authority when they issued the 2006 Protective Intelligence Bulletins. We also found, however, that FPS failed to differentiate adequately between civil activist and violent extremist organizations and inaccurately attributed to the USSS some of the information in the Protective Intelligence Bulletin that had come from other sources. In addition, we found that FPS has comprehensive training and information-sharing policies in place now that were not in place in 2006. We noted, as well, that the Protective Intelligence Bulletins that were the subject of your letter were produced only for a period in 2006 and have not been issued since, and that FPS conducted no further investigation or information gathering relating to the nonviolent activist groups and demonstrations listed in the Bulletins.

We have recommended that FPS should take care to distinguish between individuals and organizations engaged in peaceful protected First Amendment activities and those who do or may pose a threat to public safety. We also recommended that FPS use the term "violent

extremist” rather than “extremist” in its products to avoid the implication that all extreme views are violent. NPPD has concurred in our recommendations and has issued us renewed assurances that it is careful to distinguish between peaceful activists and violent extremists in all of its programs.

We appreciate your bringing this matter to our attention, and your patience in working with CRCL to conclude our investigation. If you have any further concerns, please contact CRCL by phone at 1-866-644-8360, 1-866-644-8361 (TTY), or by email at crcl@dhs.gov.

Sincerely,



Margo Schlanger
Officer for Civil Rights and Civil Liberties
U.S. Department of Homeland Security